
**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

**VITAMINS ONLINE, INC., a Delaware
corporation,**

Plaintiff,

v.

**HEARTWISE, INC., an Oregon
corporation d/b/a NATUREWISE,**

Defendant.

**MEMORANDUM DECISION AND
ORDER REGARDING VITAMINS
ONLINE’S MOTION TO SET ASIDE,
JOINT MOTION FOR THE RELEASE
OF FUNDS, AND MOTION TO
EXPEDITE**

Civil Action No: 2:13-cv-00982-DAK

Judge Dale A. Kimball

**MAGLEBY CATAXINOS P.C., a Utah
professional corporation; PRAVATI
CAPITAL, LLC, a Delaware limited
liability company; PRAVATI CREDIT
FUND III, LP, a Delaware limited
partnership; and PRAVATI INVESTMENT
FUND IV, LP, a Delaware
limited partnership,**

Intervenors.

This matter is before the court on Vitamins Online, Inc.’s Motion to Set Aside Order Regarding Procedure Pertaining to Bankruptcy Court’s Report (“Motion to Set Aside”),¹ and Vitamins Online’s and Intervenor Workman Nydegger PC’s (“WN”) Joint Motion for an Order Re Bankruptcy Court’s Report and the Release of the Funds in the Bankruptcy Court’s Registry (“Release of Funds Motion”).² The Motion to Set Aside has been fully briefed since April 28,

¹ ECF No. 799.

² ECF No. 803.

2025, and the Release of Funds Motion has been fully briefed since May 7, 2025. Vitamins Online did not seek expedited briefing on its motions, but it filed a Motion to Expedite the court's decision.³ Because no party has requested oral argument, the court grants Vitamins Online's Motion to Expedite. Now, having carefully considered each motion and the related memoranda, the court, being fully informed, denies the motions.

The court declines to set aside its Order Regarding Procedure Pertaining to Bankruptcy Court's Report, which is essentially a motion to reconsider. Vitamins Online has not met its burden for reconsideration, and even if the court did reconsider its decision, it would not set it aside.

The court also denies the Release of Funds Motion, which seeks an order directing that all funds currently held in the registry of the U.S. Bankruptcy Court for the Central District of California in connection with Heartwise's bankruptcy case should be immediately released to the client trust account of WN, subject to all lien claims and without prejudice for any party to bring any claim against VO or any other party concerning the Registry Funds.

Vitamins Online has not persuaded the court that it has jurisdiction to order the Bankruptcy Court to transfer the Registry Funds, and the Bankruptcy Court has made it clear that it will retain and control the Registry Funds until final disposition of the merits of the competing claims to payment from the funds.

Moreover, Heartwise has suggested that the Bankruptcy Plan could be "up-end[ed]" if the Registry Funds were released to WN before the remanded issue of punitive damages is resolved.⁴ While the court expresses no opinion as to the accuracy of that conclusion, the court

³ ECF No. 819.

⁴ ECF No. 811 at 3.


sees no upside in taking any risks that might further prolong this litigation. There is simply no downside in leaving the money in the Bankruptcy Court Registry, where the money is secure.

The Release of Funds Motion also requests that the court determine that Heartwise has no rights or claim to the Registry Funds. While the court does not share Heartwise's optimism that, given the accrued interest on the \$14.5 million, there may be money remaining [for Heartwise] after the distribution, the court declines to rule at this time that Heartwise has no rights or claim to the Registry Funds.

Accordingly, IT IS HEREBY ORDERED that Vitamins Online, Inc.'s Motion to Expedite [ECF No. 819] is GRANTED; Vitamins Online's Motion to Set Aside Order Regarding Procedure Pertaining to Bankruptcy Court's Report [ECF No. 799] is DENIED, and the Joint Motion for an Order re Bankruptcy Court's Report and the Release of the Funds in the Bankruptcy Court's Registry [ECF No. 803] is DENIED.

DATED this 9th day of May 2025.

BY THE COURT:


DALE A KIMBALL
United States District Judge